

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

PLAINTIFFS' OMNIBUS MOTION IN LIMINE

Plaintiffs respectfully move *in limine* to exclude certain evidence and arguments.

Specifically, Plaintiffs request that the Court preclude Cox from offering evidence or argument at trial concerning the following:

1. Any evidence or argument inconsistent with this Court's factual findings in its summary judgment decision concerning Cox's DMCA defense in *BMG v. Cox*, Case No. 14-CV-1611 (E.D. Va.);
2. Any evidence or argument concerning Cox's misleading and unsupported contention that "96% Stop by 5 Notices";
3. Any evidence or argument relating to the policies or practices of other ISPs (including the Copyright Alert System);
4. Any argument that Cox is not liable for infringement over its network by users other than named account holders;
5. Any evidence or argument concerning the MarkMonitor '236 spreadsheet (DX 98 – DX 100);
6. The REV0003444 spreadsheet (DX 158) and any related testimony or argument;
7. Emails Cox received from customers purporting to respond to Plaintiffs' infringement notices (DX 363 – DX 2200);
8. Any evidence or argument concerning Plaintiffs' track-level revenues from the works in suit;

9. Affirmative deposition testimony from witnesses Cox controls and could bring to trial to testify in person;
10. Live testimony from four key witnesses it refuses to make available for live examination in Plaintiffs' case in chief; and
11. Testimony from Victoria Scheckler.

Dated October 19, 2019

Respectfully submitted,

/s/ Scott A. Zebrak

Scott A. Zebrak (38729)

Matthew J. Oppenheim (*pro hac vice*)

Jeffrey M. Gould (*pro hac vice*)

Kerry Mustico (*pro hac vice*)

OPPENHEIM + ZEBRAK, LLP

4530 Wisconsin Avenue, NW, 5th Floor

Washington, DC 20015

Tel: 202-480-2999

scott@oandzlaw.com

matt@oandzlaw.com

jeff@oandzlaw.com

kerry@oandzlaw.com

Attorneys for Plaintiffs